

JUN-30-2005(THU) 16:27

LAW OFFICE

(FAX) 334 263 1130

P.002/0

IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA

TERRY R. PARHAM,

Plaintiff,

v.

UNITED PARCEL SERVICE,

Defendant.

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Case No. CV-2005- 1522

FILED
CIRCUIT COURT OF
MONTGOMERY COUNTY
2005 JUN 17 PM 3:51

COMPLAINT

This action is filed pursuant to the Workers' Compensation laws of the State of Alabama. Terry R. Parham claims of the employer all benefits due him under the Workers' Compensation Act of Alabama as last amended, and further sets forth the following:

1. United Parcel Service is a foreign corporation doing business in Montgomery County, Alabama.
2. Jurisdiction is proper in this Honorable Court pursuant to *Ala. Code § 25-5-88 (1975)* and *Ala. Code § 12-11-30 (1975)*.
3. Venue is proper in Montgomery County, Alabama pursuant to *Ala. Code § 6-3-7 (1975)*.

COUNT ONE

WORKERS' COMPENSATION

4. On or about April 14, 2004, Terry R. Parham was an employee of United Parcel Service, Inc., and said parties were subject to the Workers' Compensation Act of Alabama, as last amended.
5. On or about April 14, 2004, Terry R. Parham, while employed and engaged in the business of his employer, and while acting within the line and scope of his employment with his employer, injured his head by accident arising out of and in the course of the employment with employer and resulting in temporary total disability and permanent

EXHIBIT

B

partial disability and rendering him incapacitated within the meaning of the Workers' Compensation Act of Alabama, as last amended.

6. Terry R. Parham was forced to be examined and treated by several physicians and incur medical bills, including, but not limited to, doctors bills, x-rays, medicine and medical services necessary for the treatment of his injuries, and Terry R. Parham will continue to incur medical bills in the future which are necessary for the treatment of his injuries.

7. On or about 4/14/2004, Terry R. Parham was receiving an average weekly wage of approximately \$986.80, exclusive of fringe benefits.

8. Terry R. Parham avers that his employer received immediate and actual knowledge of the aforesaid injuries.

WHEREFORE, Terry R. Parham claims of United Parcel Service, Inc., such benefits as he is entitled to receive under the Workers' Compensation Act of the State of Alabama.

COUNT TWO
BREACH OF DUTY

9. Terry R. Parham reasserts and re-alleges paragraphs one through 8 as if set out here in full.

10. United Parcel Service owed a duty to provide a reasonable safe work environment to Terry R. Parham.

11. United Parcel Service breached that duty in violation of *Ala. Code § 25-5-11*, by willfully failing to provide a safe work environment necessary to prevent said injury.

12. As a direct and foreseeable result of United Parcel Service's willful conduct, Terry R. Parham has been severely injured.

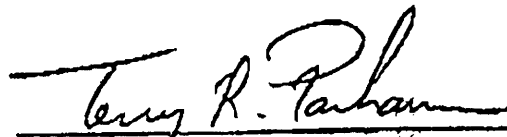
WHEREFORE, Terry R. Parham claims of United Parcel Service such an amount of compensatory damages so as to make him whole. Furthermore, the actions and conduct of Defendant arise to such level as to allow for, and indeed require, the imposition of punitive damages to deter this Defendant and those similarly situated from such conduct.

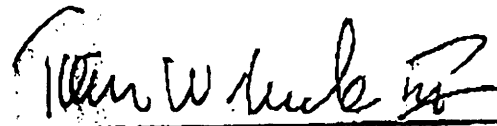
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Respectfully submitted this the 15th day of June, 2005.


Terry R. Parham


Tiernan W. Luck, III
Attorney for Terry R. Parham

OF COUNSEL:
Tiernan W. Luck, III, LLC
Attorney at Law
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STATE OF ALABAMA)

MONTGOMERY COUNTY)

Before the undersigned authority, this day personally appeared Terry R. Parham, who, after being first duly sworn by me, deposes and says that the matters, facts and things set forth and averred in the foregoing Complaint are true as therein set forth.

Terry R. Parham
Terry R. Parham

SWORN TO AND SUBSCRIBED before me on this the 15 day of June,
2005.

Nancy C. House
Notary Public

[SEAL]

My commission expires: 7-21-05

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

TERRY PARHAM,)	
)	
Plaintiff,)	
)	
v)	CV-2005-1522
)	
UNITED PARCEL SERVICE,)	PLAINTIFF DEMANDS A
)	TRIAL BY JURY
Defendant.)	

PLAINTIFF'S FIRST AMENDED COMPLAINT

COMES NOW, Terry R. Parham, the injured employee the above-styled action, and submits the following amendment of Count Two of his Complaint.

9. Terry R. Parham reasserts and re-alleges paragraphs one through 8 as if set out here in full.

10. Randy Allen is a resident of Autauga County, Alabama and is believed to be over the age of nineteen years.

11. All causes of action herein occurred within the territorial bounds of this Court's jurisdiction and venue.

COUNT II

12. Terry Parham reincorporates paragraphs one through eleven as if set out here in full.

13. On or about April 14, 2004, Defendant Randy Allen, with knowledge of the danger or peril to Terry Parham, consciously pursued a course of conduct with a design, intent, and purpose of inflicting injury to Terry Parham.

14. Defendant Randy Allen accomplished his illegal scheme by placing Terry Parham in a tractor that had been "red-tagged" as unfit for use.

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15. As a direct and proximate result of Randy Allen's actions, Terry Parham was seriously injured and has not been able to return to work.

16. Terry Parham has suffered severe emotional distress, pain and suffering, medical bills, and lost wages as a result of Defendant Randy Allen's actions.

WHEREFORE, premises considered, Terry Parham prays this Honorable Court will enter judgment against Defendant Randy Allen for his illegal scheme and intent to injure Terry Parham in an amount to compensate him for his losses; furthermore, Defendant Randy Allen's actions arise to and indeed require the imposition of punitive damages to deter this Defendant and others similarly situated from like conduct.

Respectfully submitted this the 29th day of September, 2005.



Tiernan (Terry) W. Luck, III LUC013
Attorney for Terry Parham

Tiernan W. Luck, III, Attorney at Law, L.L.C.
621 S. Hull Street
Montgomery, AL 36104
(334) 262-5455
(334) 263-1130 facsimile

CERTIFICATE OF SERVICE

I certify that on the 28 day of September, 2005, the foregoing document was served on listed counsel, properly addressed and pre-paid, in the following manner:

- ☐ Facsimile;
- ☐ Facsimile, original to follow by United States mail, first class, properly addressed
- ☒ United States mail, first class, properly addressed;
- ☐ United States mail, Express Mail delivery;
- ☐ Federal Express, overnight delivery;
- ☐ United Parcel Service, overnight delivery
- ☐ Hand delivery;
- ☐ Email, original to follow by United States mail, first class, properly addressed

Donald B. Kirkpatrick
Sean Pierce
Carr, Allison, Pugh, Howard, Oliver & Sisson, P.C.
100 Vestavia Parkway
Suite 200
Birmingham, AL 35216

T. Kirkpatrick

STATE OF ALABAMA
MONTGOMERY COUNTY

I, as Circuit Clerk, Montgomery County Circuit Court, do hereby certify that the within is a complete, true and correct copy of the Plaintiffs first Amended comp on file in said office.

Witness my hand and the seal of said Court is hereto affixed, this the 25th day of may, 2006

CIRCUIT CLERK

Delores Pittman